

E-filed: 9/5/2008

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

RAMBUS INC.,

Plaintiff,

v.

HYNIX SEMICONDUCTOR INC., HYNIX
SEMICONDUCTOR AMERICA INC.,
HYNIX SEMICONDUCTOR
MANUFACTURING AMERICA INC.,

SAMSUNG ELECTRONICS CO., LTD.,
SAMSUNG ELECTRONICS AMERICA,
INC., SAMSUNG SEMICONDUCTOR, INC.,
SAMSUNG AUSTIN SEMICONDUCTOR,
L.P.,

NANYA TECHNOLOGY CORPORATION,
NANYA TECHNOLOGY CORPORATION
U.S.A.,

Defendants.

No. C-05-00334 RMW

ORDER GRANTING SAMSUNG'S MOTION
TO SHORTEN TIME AND DENYING
SAMSUNG'S MOTION TO DISMISS

[Re Docket No. 2119, 2121]

RAMBUS INC.,

Plaintiff,

v.

SAMSUNG ELECTRONICS CO., LTD.,
SAMSUNG ELECTRONICS AMERICA,
INC., SAMSUNG SEMICONDUCTOR, INC.,
SAMSUNG AUSTIN SEMICONDUCTOR,
L.P.,

Defendants.

No. C-05-02298 RMW

[Re Docket No. 1068, 1070]

On September 2, 2008, Samsung moved pursuant to Civil Local Rule 6-3 to shorten time on its motion to voluntarily dismiss certain claims and defenses scheduled to be tried on September 22. Prior to the court ruling on the motion to shorten time, Rambus filed its opposition to the underlying motion to dismiss. The court therefore grants Samsung's motion to shorten time.

The court has reviewed the moving and opposing papers with regard to the motion to dismiss. The court deems the matter appropriate for submission on the papers. See Civ. L.R. 7-1(b).

Samsung moves to voluntarily dismiss some of its claims and defenses pursuant to Rule 41(a)(2). "As its title, 'Dismissal of Actions,' suggests, Rule 41, or at least Rule 41(a), governs dismissals of *entire actions*, not of individual claims." *Hells Canyon Preservation Council v. U.S. Forest Service*, 403 F.3d 683, 687 (9th Cir. 2005) (emphasis in original). "[T]he Rule does not allow for piecemeal dismissals." *Id.* Where a plaintiff wishes to withdraw individual claims, it must do so pursuant to Rule 15. *Id.*

In determining whether to permit a plaintiff leave to amend under Rule 15, "[p]rejudice to the opposing party is the most important factor." *Jackson v. Bank of Hawaii*, 902 F.2d 1385, 1387 (9th Cir. 1990). Such prejudice exists here. Samsung's motion comes with less than a month until trial. It is enormously prejudicial to Rambus to allow Samsung to dismiss its claims now and permit it to move this trial to state court and without the existing record already developed in the almost eight weeks of trial that occurred before this court in January. This will impose both an undue delay and substantial additional costs on Rambus. *Accord AmerisourceBergen Corp. v. Dialysist West, Inc.*, 465 F.3d 946, 951 (9th Cir. 2006). Because the ample prejudice to Rambus justifies denying Samsung's motion to amend its complaint, the court does not reach the close questions of whether Samsung's motion is made in bad faith or with dilatory motive, which would provide separate grounds for denying a motion to amend a complaint. *See, e.g., Moore v. Kayport Package Exp., Inc.*, 885 F.2d 531, 538 (9th Cir. 1989).

DATED: 9/5/2008



RONALD M. WHYTE
United States District Judge

1 **Notice of this document has been electronically sent to counsel in: C-05-00334 and C-05-02298:**

Counsel for Rambus Inc., all actions		Counsel for Hynix entities, C-00-20905 and C-05-00334	
Burton Alexander Gross	Burton.Gross@mto.com	Allen Ruby	ruby@allenrubylaw.com
Carolyn Hoecker Luedtke	carolyn.luedtke@mto.com	Belinda Martinez Vega	bvega@omm.com
Catherine Rajwani	crajwani@sidley.com	Daniel J. Furniss	djfurniss@townsend.com
Craig N. Tolliver	ctolliver@mckoolsmith.com	Geoffrey Hurndall Yost	gyost@thelenreid.com
David C. Yang	david.yang@mto.com	Jordan Trent Jones	jtjones@townsend.com
Douglas A. Cawley	dcawley@mckoolsmith.com	Joseph A. Greco	jagreco@townsend.com
Erin C. Dougherty	erin.dougherty@mto.com	Kenneth Lee Nissly	kennissly@thelenreid.com
Gregory P. Stone	gregory.stone@mto.com	Kenneth Ryan O'Rourke	korourke@omm.com
Jennifer Lynn Polse	jen.polse@mto.com	Patrick Lynch	plynch@omm.com
Keith Rhoderic Dhu Hamilton, II	keith.hamilton@mto.com	Susan Gregory VanKeulen	svankeulen@thelenreid.com
Kelly Max Klaus	kelly.klaus@mto.com	Theodore G. Brown, III	tgbrown@townsend.com
Miriam Kim	Miriam.Kim@mto.com	Tomomi Katherine Harkey	tharkey@thelen.com
Peter A. Detre	detrepa@mto.com	Counsel for Micron entities, C-06-00244	
Pierre J. Hubert	phubert@mckoolsmith.com	Aaron Bennett Craig	aaroncraig@quinnemanuel.com
Rosemarie Theresa Ring	rose.ring@mto.com	David J. Ruderman	davidruderman@quinnemanuel.com
Scott L Cole	scole@mckoolsmith.com	Harold Avrum Barza	halbarza@quinnemanuel.com
Scott W. Hejny	shejny@sidley.com	Jared Bobrow	jared.bobrow@weil.com
Sean Eskovitz	sean.eskovitz@mto.com	John D Beynon	john.beynon@weil.com
Steven McCall Perry	steven.perry@mto.com	Leeron Kalay	leeron.kalay@weil.com
Thomas N Tarnay	ttarnay@sidley.com	Linda Jane Brewer	lindabrewer@quinnemanuel.com
William Hans Baumgartner, Jr	wbaumgartner@sidley.com	Rachael Lynn Ballard McCracken	rachaelmccracken@quinnemanuel.com
		Robert Jason Becher	robertbecher@quinnemanuel.com
		Yonaton M Rosenzweig	yonirosenzweig@quinnemanuel.com

28 ORDER GRANTING SAMSUNG'S MOTION TO SHORTEN TIME REGARDING SAMSUNG'S MOTION TO DISMISS AND DENYING SAMSUNG'S MOTION TO DISMISS — C-05-00334 RMW; C-05-02298 RMW
TSF

Counsel for Nanya entities, C-05-00334		Counsel for Samsung entities, C-05-00334 and C-05-02298	
Chester Wren-Ming Day	cday@orrick.com	Ana Elena Kadala	anita.kadala@weil.com
Craig R. Kaufman	ckaufman@orrick.com	Claire Elise Goldstein	claire.goldstein@weil.com
Glenn Michael Levy	glevy@orrick.com	David J. Healey	david.healey@weil.com
Jan Ellen Ellard	jellard@orrick.com	Edward Robert Reines	Edward.Reines@weil.com
Jason Sheffield Angell	jangell@orrick.com	Matthew D. Powers	matthew.powers@weil.com
Kaiwen Tseng	ktseng@orrick.com		
Mark Shean	mshean@orrick.com		
Robert E. Freitas	rfreitas@orrick.com		
Vickie L. Feeman	vfeeman@orrick.com		

Counsel for intervenor, Texas Instruments, Inc., C-05-00334	
Kelli A. Crouch	kcrouch@jonesday.com
Counsel for intervenor, United States Department of Justice, C-00-20905	
Eugene S. Litvinoff	eugene.litvinoff@usdoj.gov
May Lee Heye	may.hey@usdoj.gov
Nathanael M. Cousins	nat.cousins@usdoj.gov
Niall Edmund Lynch	Niall.Lynch@USDOJ.GOV
Counsel for intervenor, Elpida Memory, Inc., C-00-20905 and C-05-00334	
Eric R. Lamison	elamison@kirkland.com
John J. Feldhaus	jfeldhaus@foley.com

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Dated: 9/5/2008

TSF
Chambers of Judge Whyte